

# **EXHIBIT A**

## PORTER V. CABRAL, ET AL

## DEPOSITION OF GERARD HORGAN

VOL: I  
PAGES: 1-172  
EXHIBITS: 1-4

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\*\*\*\*\*  
SHEILA J. PORTER, \*  
Plaintiff \*  
-vs- \* Civil Action  
ANDREA CABRAL; SUFFOLK COUNTY \* No. 04-11935-DPW  
SHERIFF'S DEPARTMENT; SUFFOLK \*  
COUNTY and CORRECTIONAL MEDICAL \*  
SERVICES, INC., \*  
Defendants \*  
\*\*\*\*\*

DEPOSITION OF GERARD HORGAN, a witness  
called on behalf of the Plaintiff, in the  
above-captioned matter, said deposition being  
taken pursuant to the Federal Rules of  
Civil Procedure, before Patricia M.  
McLaughlin, a Certified Shorthand Reporter and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Goodwin Procter  
LLP, Exchange Place, Boston, Massachusetts, on  
Friday, May 13, 2005, commencing at 10:05 a.m.

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## I N D E X

1	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
2	GERARD HORGAN				
3	By Mr. Schumacher	5			
4	By Ms. Harvey		170		
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## APPEARANCES:

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Correctional Medical Services, Inc.

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2	1	Amended Notice of Taking	
3		Deposition	7
4	2	Policy S220	94
5	3	Memorandum, dated June 4,	
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spreadsheet?

A Yes.

Q I think you said you spoke to individuals with personal knowledge on the facts underlying Mrs. Porter's claims?

A Yes.

Q Who did you speak to?

A I spoke to former Special Sheriff Patrick Bradley. I spoke Superintendent Viktor Theiss. I spoke to Assistant Deputy Superintendent Neville Arthur. I spoke to Chief of Staff Elizabeth Keeley. I spoke to Department Investigator Stan Wotjowski, Deputy Superintendent Steven Jacobs.

And I believe that's it.

Q What did you speak to Mr. Bradley about?

A I asked Pat if he recalled the situation that led to the barring of Sheila Porter and his involvement in that decision.

Q And what did he say about that?

A He remembered the situation. He indicated that Mary Ellen Mastrorilli had approached him and said that there was some concern with the situation -- can I say the inmate's name?

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Q Yes, there is a protective order in place, so it won't go beyond the attorneys or the parties in this case.

A There was a situation regarding a former inmate, Rene Rosario. There was concern about some medical treatment that had been provided and the lack of documentation. Mary Ellen indicated that she was going to handle the situation.

Pat then indicated to me that Elizabeth Keeley and Mary Ellen took it from there and he was pretty much kept out of the loop after.

Q Was it your understanding that Mr. Bradley's only personal knowledge of this case came from his conversation with Miss Mastrorilli?

A Yes.

Q What did you speak to Mr. Theiss about?

A I asked Superintendent Theiss if he was familiar with the Sheila Porter situation, which he was. I asked him if he knew -- I asked him specifically if he knew that she was an informant for the FBI and, if so, what.

15

Q What did he say?

A He said that he understood that Sheila had some involvement with the FBI. He didn't use the word, informant. He said it was after the fact that she was barred.

Q I'm sorry. What was after the fact that she was barred?

A His knowledge came after the fact.

Q So he don't know prior to Miss Porter's barring that Miss Porter had communications with the FBI?

A No.

Q Is it Neville Arthur?

A Yes.

Q What's his position? Is it a he?

A It's a he. Neville is currently the Deputy Superintendent, the No. 2 person in SID. At the time, going back to 2003, he was an investigator. He's been with the department for a good amount of time. He indicated to me -- and I spoke to Neville as well.

Q What did you talk about with Neville?

A I asked Neville if he remembered the Sheila Porter/Rene Rosario situation. He

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indicated that he did. I asked him what was the extent of the knowledge and that if he knew there was FBI involvement with Sheila Porter regarding that situation.

Q How did he respond?

A He indicated to me that he had a conversation with an FBI agent. He estimated it was sometime in the year, 2002, in which -- I believe it was one of two FBI agents. He wasn't sure which one it was. They indicated to him -- one of them indicated to him -- that Sheila was someone that they could trust, and they asked him to remain confidential about it.

Q In June, 2003, what was Mr. Arthur's position?

A He was an investigator with SID.

Q Was he involved in the investigation into Inmate Rosario's allegations?

A I'm not sure. Rosario had more than one series of allegations. He was involved in some of them, but I'm not sure if he was involved in this one specifically.

Q Was your purpose in speaking to Mr. Arthur to

1 else?

2 A No. We talked about her meeting with  
3 Mary Ellen and that -- we talked about the  
4 Porter matter, the Sheila Porter matter.  
5 Sorry, Sheila. That she had a meeting with  
6 Mary Ellen, where she instructed Mary Ellen  
7 Mastrorilli to bar Sheila Porter, gave her  
8 the reasons why.

9 Elizabeth said she gave her the laundry  
10 list that I just discussed. It was her  
11 feeling that Mary Ellen only talked about one  
12 of those things and not all of them in the  
13 meeting.

14 Q Did she tell you how she knew that Mary Ellen  
15 only talked about one of those reasons in the  
16 meeting?

17 A No.

18 Q Did she tell you how many meetings or  
19 conversations she had with Mary Ellen about  
20 the Porter matter?

21 A I believe it was two, one when Mary Ellen  
22 told her about on it -- I'm sorry. It would  
23 have been three. The first one would have  
24 been when Mary Ellen told her about it. The

1 any interactions with the FBI until after  
2 this -- until after the barring had taken  
3 place.

4 Q So Stan told you that he had no idea that  
5 Miss Porter had been talking to the FBI until  
6 after she was barred?

7 A Yes.

8 Q At any time?

9 A At any time.

10 Q I believe the last person you mentioned was  
11 Mr. Jacobs that you spoke with?

12 A Yes.

13 Q What did you speak with him about?

14 A I asked him if he had any knowledge of the  
15 Sheila Porter situation. He indicated that  
16 he had a general knowledge about it. I asked  
17 him if he knew that she was involved with the  
18 FBI and, if so, when. He said that he did  
19 not know until after the fact, after the fact  
20 that she was barred.

21 Q Why did you determine to speak with  
22 Mr. Jacobs?

23 A He was the No. 2 person in SID at the time in  
24 2003.

second one would have been after the chief  
had spoken with the Sheriff and the decision  
was made to bar Miss Porter and communicated  
that to Mary Ellen. The third would have  
been when Mary Ellen called Elizabeth back  
and indicated that Sheila was asking why and  
what could she tell her.

Q Did she tell you if she had a subsequent  
conversation with Miss Mastrorilli that  
justified her belief that only one of those  
reasons was communicated to Miss Porter?

MS. CAULO: Objection.

A No.

Q So you don't know what she based that belief  
on?

A No.

Q What did you talk to Mr. Wotjowski about?

A I'll call him Stan. I asked Stan if he was  
familiar with the Porter matter. He  
indicated he had some knowledge of it. I  
asked him if he was familiar with the fact  
that Sheila had some interactions with the  
FBI and, if so, when did he know it. He  
indicated that he did not know that she had

1 Q He said he had a general understanding of the  
2 Porter matter, if you will?

3 A Yes.

4 Q Did he have a direct role in the  
5 investigation in any way?

6 MS. CAULO: Objection. Beyond the  
7 scope. You may answer.

8 A I'm not sure if he did or not.

9 Q Did you speak with Sheriff Cabral?

10 A No.

11 Q Why not?

12 A I thought she was coming in to testify. From  
13 my perspective, I think talking to the chief  
14 answered the questions that I had.

15 Q Do you have an understanding about who made  
16 the decision to bar Miss Porter?

17 MS. CAULO: Objection. Beyond the  
18 scope.

19 A Yes.

20 Q Who was that?

21 A Ultimately, it was Sheriff Cabral.

22 Q But you thought it was sufficient to talk to  
23 the list of people you told me to determine  
24 everything you needed to know about this; is

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1 to provide us with a report on the alleged  
2 wrongdoings; and that the fact that  
3 Inmate Rosario was telling people that  
4 Sheila Porter was an informant, it was  
5 concern for her safety as well.

6 Q Any other reasons why Miss Porter was barred?

7 MS. CAULO: Objection.

8 A Those are the reasons that I believe are the  
9 reasons why.

10 Q The fact that Miss Porter provided  
11 confidential information to individuals  
12 outside of the House of Corrections, was that  
13 a reason she was barred?

14 MS. CAULO: Objection. Beyond the  
15 scope?

16 A I would say if she provided confidential  
17 information to them and to us, we wouldn't be  
18 here today.

19 Q What do you mean by that?

20 MS. CAULO: Objection. Beyond the  
21 scope.

22 A If she had allowed us an opportunity to  
23 investigate it, I don't believe she would  
24 have been barred.

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1 Q Providing confidential information to  
2 individuals outside of the department, was  
3 that a reason she was barred?

4 MS. CAULO: Objection. Beyond the  
5 scope.

6 A The way you put it, no. If she had provided  
7 it along with providing us, then yes. The  
8 fact that she did not let us know was the  
9 reason why.

10 Q Is that another reason, because you gave me  
11 four reasons, and the fact that she didn't  
12 allow the department to investigate, where  
13 did that fall in your four reasons?

14 A The failure to report.

15 Q This was No. 3, which was refusing an order  
16 to provide a report?

17 MS. CAULO: Objection.

18 A Yes.

19 Q The fact that she provided confidential  
20 information to individuals outside of the  
21 House of Corrections, in and of itself, was  
22 that a reason for her barring?

23 MS. CAULO: Objection. David, I want to  
24 go on the record specifically here.

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1 Sheriff Cabral was designated as a 30(b) (6)  
2 person. She testified. She also testified  
3 in her own right as to the reasons that she  
4 articulated for the barring of Miss Porter.

5 Superintendent Horgan has indicated that  
6 he has no personal knowledge about the  
7 barring. He has not been designated to  
8 testify about it. He was not involved in  
9 that decision.

10 MR. SCHUMACHER: I'll just say, Ellen,  
11 we're just getting numerous different stories  
12 as to why Sheila Porter was barred, and we  
13 have got the Superintendent of the House of  
14 Corrections here today. He's allowed to  
15 testify as to what he knew in that respect.

16 MS. CAULO: No, David, what he's allowed  
17 to testify is he's been designated to  
18 represent the department and the county on  
19 the topics that you have identified subject  
20 of clarification conversation that you and I  
21 had. This is not one of those topics.

22 He has indicated that he has no personal  
23 knowledge; he was not involved.

24 MR. SCHUMACHER: He's superintendent of

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1 the House of Corrections.

2 MS. CAULO: He was not at the time.

3 MR. SCHUMACHER: He's the voice of the  
4 House of Corrections, and he can certainly  
5 provide his understanding as to why an  
6 individual who was working in the House of  
7 Corrections was barred.

8 MS. CAULO: No, David. He's been  
9 designated as a representative pursuant to  
10 30(b) (6) to talk about specific topics that  
11 you and I have agreed to. This is not one of  
12 them. He was not superintendent of the House  
13 of Correction at the time, just so the record  
14 is clear.

15 I would like this deposition to be  
16 designated as confidential.

17 MR. SCHUMACHER: That's your  
18 designation, and we are considering whether  
19 we are going to challenge it.

20 BY MR. SCHUMACHER:

21 Q The reason that you just provided to me as to  
22 your understanding as to why Mrs. Porter was  
23 barred, what's that based on?

24 A The conversation with Chief Keeley.